

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 1502666 (JNE/FLN)

This Document Relates to:

SUGGESTION OF DEATH

PLAINTIFF

MARTIN RYGAARD JR.

VS.

**3M COMPANY AND ARIZANT
HEALTHCARE, INC.**

Civil Action No. 0:20-cv-00495

Plaintiff, by and through undersigned counsel and pursuant to Rule 25 of the Federal Rules of Civil Procedure and Pretrial Order #23, hereby informs this Court of the death of Plaintiff, Martin Rygaard Jr., and in support thereof says:

1. On January 20, 2023, Plaintiff Martin Rygaard Jr. died.
2. On April 21, 2023, Plaintiff's Spouse Carol Rygaard was called and informed Plaintiff's attorneys that Plaintiff Martin Rygaard Jr. had died.
3. Plaintiff's attorneys file this Suggestion of Death within 4 hours of learning of the death of Martin Rygaard Jr.
4. In Texas, the heirs of a decedent may bring a survival action if there is no administration pending and none is necessary. *Shepherd v. Ledford*, 962 S.W.2d 28, 31 (Tex. 1998). The heirs can also bring a survival action by showing that the interest

of the estate requires immediate action and there is no representative qualified to act.

Izard v. Townsend, 208 S.W.2d 666, 668 (Tex. Civ. App. - - Galveston 1943).

5. Plaintiff Martin Rygaard Jr. died married and with a will. A will is a document by which a person—the testator—expresses his wishes for what should be done after his death regarding his property, the administration of his estate, or the guardianship of his children. *Boyles v. Gresham*, 263 S.W.2d 935, 937 (Tex.1954).
6. To take effect, a will must be admitted to probate. TEX. EST. CODE § 256.001.
7. As of April 21, 2023, probate proceeding have not begun. However, the sole beneficiary and executor of the estate in the decedent’s will is his wife Carol Rygaard.

Plaintiff respectfully informs this Court that a Motion for Substitution of Parties and an Amended Complaint will be filed by the appropriate representative of Martin Rygaard Jr.’s estate within the appropriate time period.

Dated: April 21, 2023

Respectfully submitted,
Houssiere, Durant & Houssiere, LLP by
/s/Randal Kauffman-
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ATTORNEYS FOR PLAINTIFF
HEATHER CLEMMONS

Certificate of Service

I certify that on April 21, 2023, the forgoing Suggestion of Death was filed electronically by using the CM\ECF system which will deliver the document to all counsel of record.

/s/Randal Kauffman-

Randal A. Kauffman